THE HON'BLE MR JUSTICE B.PRAKASH RAO

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.73 of 2006

-

-

30th January 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02.01.2006 in W.V.M.P.No.3370 of 2005 in W.P.M.P.No.23022 of 2005 in W.P.No.18085 of 2005 on the file of the High Court.)

Between:

1. Mr. Laxan Rao, Addl. Secretary, AP TRANSCO,
   Vidyut Soudha, Khairatabad, Hyderabad.

And two others.

...APPELLANTS

AND

Sri Erranna, S/o. Late Sri Sayanna,
H.No. 8-2-684/96/9, NBT Nagar, Road No. 12, Near Kaman,

Hyderabad - 500 034.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.73 of 2006

-

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri P.Nageswara Sree, the learned counsel appearing for the appellants and Sri G.Mukunda Reddy, the learned counsel appearing for the respondent/writ petitioner.

The Writ Appeal is filed against the order dated 02.01.2006 in W.V.M.P.No.3370 of 2005 in W.P.M.P.No.23022 of 2005 in W.P.No.18085 of 2005 making the interim order granted earlier as absolute pending the Writ Petition.

The facts, which are necessary for disposal of this appeal, are that the relief sought

in the Writ Petition is for a mandamus directing the appellants herein to pay the respondent all the terminal benefits to which he is entitled to and due to him from 01.07.1997 to 31.10.2004 and the terminal benefits for the service rendered up to 31.10.2004 as per the Service Rules.

The claim of the respondent/writ petitioner rests on the fact that in spite of the earlier directions, the appellants are withholding the same without any valid reasons.

Pending the Writ Petition, initially, an interim order was granted on 27.09.2005 in W.P.M.P.No.23022 of 2005 wherein the relief sought was to pay the very said amounts at the last drawn salary per month. Later on, the appellants filed an application to vacate the interim order. The interim order was made absolute as per the order dated 02.01.2006 in W.V.M.P.No.3370 of 2005.

After hearing the learned counsel on either side and on perusal of the material available on record, it is seen that at interlocutory stage, both granting of interim order and making it absolute were virtually made without going into the merits, as the relief sought for in the Writ Petition runs in the same lines. As the Writ Petition is still pending consideration, any such order virtually allowing the Writ Petition cannot be sustained unless and until the merits are gone into.

In the circumstances, we feel that it is more appropriate that the Writ Petition should be heard at the earliest with regard to the chequered events as established by the respondent. However, we are not inclined to grant any interim direction as sought for pending the Writ Petition.

Accordingly, the Writ Appeal is allowed. Both the interim orders dated 02.01.2006 in W.V.M.P.No.3370 of 2005 and dated 27.09.2005 in W.P.M.P.No.23022 of 2005 are set aside. No costs.

Office is directed to the post the Writ Petition for “Final Hearing” subject to “Part Heard” on 13.02.2006 before the regular Court hearing the matters.

_____

(B.PRAKASH RAO, J)

_____

(DR G.YETHIRAJULU, J)

30th January 2006

RRB